

Internal Revenue Service

Number: **200924002**
Release Date: 6/12/2009
Index Number: 892.02-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-100213-09

Date:
March 09, 2009

TY:

Legend

Bank	=
Country X	=
Constitution	=
Act	=
National Sovereign	
Body	
m	=
n	=

Dear :

This is in response to a letter dated December 24, 2008, from your authorized representative requesting a ruling whether Bank is entitled to exemption from United States federal income tax under section 892 of the Internal Revenue Code ("Code"). The information submitted for consideration is substantially as set forth below.

FACTS

Bank derives its existence and mandate from the Constitution of Country X, which provides for Bank's independence from, but accountability to, the national sovereign of Country X. Bank's Constitutional mandate was implemented by Act, which established Bank as a Country X special statute joint-stock company. Bank is a "central bank of issue" within the meaning of Treas. Reg. §1.895-1(b) for Country X. In such capacity, it issues the nation's currency (with the sole authority to do so), develops and implements monetary policy, maintains and manages Country X's foreign exchange reserves, holds

commercial bank reserves, oversees Country X's payments systems, serves as a bank to Country X, and maintains accounts for and with other central banks. Bank represents Country X in international banking-related organizations. Bank is authorized to collect data and to promulgate rules as to minimum reserves required of Country X banks and also rules for both payment systems and securities settlement systems. Failure to comply with such rules is made punishable under Country X law by penal sanctions of imprisonment and fines, and banks that fail to maintain the minimum reserve levels set by Bank must pay interest to Bank on the shortfall. In performing its monetary policy functions, Bank is obligated by the Constitution and the Act to act in accordance with the interests of the country as a whole and is required to be administered with the cooperation and under the supervision of the government of Country X. Bank is not subject to taxes on its income in Country X.

Bank is governed by a council, which exercises supervisory and oversight power over the operations of Bank, and a board, which functions as the supreme executive authority for the Bank. The majority of the council, including its president and vice-president, and all of the members of the board are appointed by National Sovereign Body, the body constituting the executive authority of the government of Country X. The annual report and financial statements of Bank must be approved by National Sovereign Body before they can be submitted to the Bank's shareholders. Bank can be liquidated only by means of a statute of the Country X national sovereign pursuant to which the net assets of Bank in excess of the stated par value of its shares (which, as increased by an amount described below, would be payable to shareholders of Bank), would be transferred to a successor central bank created or empowered by that national statute.

The total par value of Bank's share capital is a fraction of one percent when compared to the total net value of Bank's assets. The national sovereign of Country X does not itself own any of the shares of Bank. The majority of the shares are held by the public sector, comprising Country X political subdivisions, Country X political subdivision banks, and Country X political subdivision public authorities and institutions. A minority of the shares are held by private persons. The shares of Bank are listed and traded on Country X's stock exchange. All of the shares are voting shares, except that no private holder of shares may cast more than m votes (regardless of the number of shares owned by such private holder), with all actions by holders of shares decided by a majority of votes cast. The voting rights of all holders of shares are limited. Shareholders of Bank have no vote with respect to who is appointed to the board and elect only a minority of the council. Additionally, while shareholders may make proposals to change Bank's charter or to dissolve Bank, shareholders do not have the power either to make those proposed changes or to liquidate Bank or to prevent any such changes or the decision to liquidate Bank.

Distributions of profits by Bank are determined by the Country X Constitution and the Act. From annual profits, there must first be retained and added to the reserves of Bank

such amount as is necessary to maintain the currency reserves at a level necessary for monetary policy; such amount is approved by the council. From the remainder, shareholders may vote to receive a cumulative fixed percentage dividend, which may not exceed n percent of the par value of their total share capital. Any such amount is required to be paid to the shareholders before any distributions to the Country X national sovereign. A dividend has been paid by Bank to the holders of the shares with respect to each year of Bank's existence. During 2007, the total amount of annual dividends distributed to shareholders was a fraction of one percent when compared to Bank's net profits for that year. Following a distribution of dividends, Bank's remaining net profits are required by Act to be distributed to the Country X national sovereign and to its political subdivisions. On liquidation of Bank, the Act provides that payments to shareholders are limited to the par value of their shares plus any accrued portion of the annual maximum distribution. Shareholders are also entitled to receive interest on amounts they are entitled to receive for the period from the date the decision was made to liquidate Bank to the date of payment. Any remaining assets of Bank are required to be paid over to the new central bank of Country X.

LAW

Section 892(a)(1) of the Code and Temp. Treas. Reg. §1.892-3T(a) exclude from gross income and exempt from U.S. federal income taxation certain income of foreign governments. For purposes of section 892 of the Code, the term "foreign government" means only the integral parts or controlled entities of a foreign sovereign. Temp. Treas. Reg. §1.892-2T(a). Net earnings of an integral part or controlled entity must be credited its own account or to other accounts of the foreign sovereign, with no portion inuring to the benefit of any private person. See Temp. Treas. Reg. §1.892-2T(b).

Income excluded under section 892 of the Code includes only income received from investments in the United States in stocks, bonds, or other domestic securities owned by such foreign governments; income received from financial instruments held in the execution of governmental financial or monetary policy; and interest on deposits in banks in the United States of monies belonging to such foreign governments. The exclusion does not apply to income derived from the conduct of any commercial activity, whether within or without the United States, or to income received directly or indirectly from or by a controlled commercial entity or derived from the disposition of any interest in a controlled entity. Section 892(a)(2)(A) of the Code.

RULING

Based solely upon the facts and representations submitted, we conclude that Bank is entitled to exemption under section 892 of the Code from United States federal income tax with respect to income within the scope of section 892(a)(1) and Temp. Treas. Reg. §1.892-3T(a).

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for a ruling, it is subject to verification on examination.

No opinion is expressed or implied whether Bank is engaged in commercial activities within the meaning of Temp. Treas. Reg. §1.892-4T(b). No opinion is expressed or implied whether any of the income earned by Bank from investments in the United States is derived from or by a controlled commercial entity as defined in section 892(a)(2)(B). In addition, no opinion is expressed or implied concerning the tax consequences of any aspect of any other item discussed or referenced in this letter.

This ruling is directed only to the taxpayer, a central bank of issue, requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Michael A. DiFronzo
Deputy Associate Chief Counsel
(International)